

March 14, 2018

Dear Senator,

On behalf of Alliance for Justice, a nationwide association representing a broad array of groups committed to justice and civil rights, I write to oppose the confirmation of Ryan Holte to a seat on the Court of Federal Claims (CFC).

Holte is unqualified. He is currently in his mid-thirties, born in 1983, and graduated from law school less than ten years ago. He has openly admitted, “I have not tried a case,” and has never served as counsel of record before the CFC. Nominations to the Court of Federal Claims are not evaluated by the American Bar Association (ABA). However, if they were, Holte, who lacks the 12 years of requisite experience the ABA sets out in its criteria, would be deemed unqualified.

We believe comparing his qualifications to those of Judge Nancy Firestone – who was President Obama’s nominee to the same court seat – is telling. Firestone, who was nominated for a second term on the court, was reported out of the Judiciary Committee twice by voice vote, yet was not confirmed by Senate Republicans. When Firestone was first nominated to the CFC in 1998, she had served in various capacities as an attorney with the Justice Department (DOJ) for 12 years, from 1977 to 1989. From 1989 to 1992, Firestone was Associate Deputy Administrator of the Environmental Protection Agency (EPA), and then for three years she was a judge on the EPA’s Environmental Appeals Board. Firestone then served as Deputy Assistant Attorney General in the DOJ Environmental and Natural Resources Division. Finally, at the time Obama nominated her for a second term, she had 15 years of experience as a judge on the CFC.

As you know, Senator Tom Cotton blocked Firestone’s nomination along with other Obama-nominated judges to the CFC. He said that “in light of the dramatic drop in caseloads at the [CFC],” the court “doesn’t need new judges. We should keep in mind that the number of active judges authorized for the Court of Federal Claims by statute [sic], 16, isn’t a minimum number, it’s a maximum.” It is only because Firestone was refused a full Senate vote that President Trump was able to nominate Holte.

In other words, Senate Republicans refused to confirm Firestone, whose years of legal experience exceeded Holte’s entire lifetime. In addition to her years as an attorney before joining the bench, she had far more years of experience as a judge than Holte has had in the practice of law.

Given Holte’s lack of qualifications, we have serious concerns that Holte was nominated not because of his extensive legal experience but to use the court to pursue a political agenda. Holte, like many of President Trump’s judicial picks, is a longtime member of the Federalist Society, having joined in 2005. Perhaps even more significantly, since 2009 he has been a member of the lesser-known Teneo Network, described by the National Review as “a network of young conservatives, doing what they can to advance conservative principles.” Teneo described itself on its website as “a network of the nation’s most outstanding and entrepreneurial conservatives under 40 that seeks to establish conservatism as the most relevant, most responsive and most effective political ideology.” Further, in captured screen shots, Teneo described itself as “an organization of exceptional young professionals under 40 years of age committed to advancing conservative and libertarian ideas.” Members “are passionate about a variety of conservative and libertarian causes” and “commit ourselves to . . . innovative applications of conservative principles.”

Our view is that membership in these organizations is not disqualifying in and of itself. But in a case in which the nominee clearly lacks other requisite qualifications, it is a potent signifier. Holte was selected over numerous other lawyers who, for example, have actually practiced before the CFC. We have serious concerns that he is being put on the bench to advance “conservative principles” and agenda, not to administer a neutral application of the law.

For the foregoing reasons, Alliance for Justice opposes the confirmation of Ryan Holte to a seat on the Court of Federal Claims.

Sincerely,

A handwritten signature in black ink, appearing to read "Nan Aron", with a stylized, flowing script.

Nan Aron